



COMMONWEALTH OF MASSACHUSETTS DEPARTMENT OF TELECOMMUNICATIONS AND CABLE

D.T.C. 11-1

March 1, 2012

Petition of YourTel America, Inc. for Designation as an Eligible Telecommunications Carrier

ORDER SUSPENDING THE PROCEEDING

On February 10, 2011, the Department of Telecommunications and Cable (“Department”) received from YourTel America, Inc. (“YourTel”) an application, as amended (“Petition”), for designation as an eligible telecommunications carrier (“ETC”) in the Commonwealth of Massachusetts pursuant to Section 214(e) of the Telecommunications Act of 1996 (“Act”), 47 U.S.C. § 214(e), and Federal Communications Commission (“FCC”) Universal Services, 47 C.F.R. §§ 54.101 through 54.207. *See Petition of YourTel America, Inc. for Designation as an Eligible Telecommunications Carrier*, D.T.C. 11-1, Petition, at 1 (Feb. 10, 2011). YourTel requests ETC designation for the purpose of receiving funding from the low-income programs of the federal Universal Service Fund (“USF”). Petition at 3. YourTel is not requesting high-cost support. *Id.* Moreover, YourTel seeks ETC status throughout the Massachusetts Incumbent Local Exchange Carrier’s (“ILEC”), namely Verizon New England Inc.’s (“Verizon”), service territory, with the exception of nine exchanges. *See* Petition at Exhibit A (as amended, listing each Verizon wire center in Massachusetts for which YourTel is

requesting ETC status). In addition, YourTel is seeking ETC designation on a wireless basis only. *Id.* at 1.

The Department held a public hearing on May 10, 2011, to give members of the public an opportunity to provide comments regarding YourTel's Petition. Pursuant to the Department's procedural schedule, the Department issued three sets of information requests to YourTel on May 13, 2011, June 13, 2011, and July 18, 2011, respectively. The Department received YourTel's responses to these sets of information requests on June 6, 2011, June 29, 2011, and July 25, 2011, respectively. At the Department's request, YourTel supplemented its Response to Information Request 2-22 on August 23, 2011. The Department held an evidentiary hearing on August 9, 2011. During the evidentiary hearing, Dale R. Schmick, Vice-President and Chief Strategy Officer of YourTel, testified. Currently, the evidentiary record consists of YourTel's responses to the Department's 84 information requests, as amended (Exh. YT IR 1-1 through 3-21); the statements made by Mr. Schmick at the evidentiary hearing; and YourTel's responses to the Department's 13 record requests made at the evidentiary hearing (Exh. YT RR 1 through RR 13).

On February 6, 2012, the Federal Communications Commission ("FCC") issued its Lifeline and Link-Up Reform Order. *See In the Matter of Lifeline and Link Up Reform and Modernization*, WC Docket No. 11-42 (Feb. 6, 2012) ("Reform Order"). In the Reform Order, the FCC established comprehensive changes to the administration of the Lifeline program and eliminated Link-Up support for ETCs on non-tribal lands. *Id.* Moreover, the FCC granted a blanket forbearance from the "own-facilities" requirement of 47 U.S.C. 214(e)(1)(A), provided carriers meet certain conditions. *Id.* at ¶ 373. Carriers seeking to take advantage of forbearance must (a) agree to provide Lifeline subscribers with 911 and E911 access and E911 compliant

handsets; and (b) submit a compliance plan to the FCC detailing the measures the carrier will implement to comply with the Reform Order and a description of how the carrier will offer service. *Id.* at ¶¶ 373, 379. Further, the FCC ordered that “carriers shall not receive reimbursement from the program, until the [Wireline Competition] Bureau approves their compliance plans.” *Id.* at ¶ 380.

In view of the Reform Order, YourTel has indicated its intent to seek only Lifeline support and to take advantage of the FCC’s forbearance from the “own-facilities” requirement. The Department suspends this proceeding so that YourTel may satisfy the pre-conditions laid out in the FCC’s Reform Order and obtain the FCC’s approval of its compliance plan. Upon the FCC’s approval of YourTel’s compliance plan, the Department directs YourTel to file an amendment to its Petition that includes, but is not necessarily limited to, detailed descriptions of the following:

- (1) Any changes, amendments, or updates to YourTel’s (a) Petition, (b) responses to information requests, (c) responses to record requests, (d) testimony at the evidentiary hearing, and (e) post-hearing brief as a result of the Reform Order and/or changes in circumstances affecting YourTel’s Petition;
- (2) The measures YourTel will take to comply with the obligations set forth in the Reform Order and a copy of YourTel’s compliance plan approved by the FCC;
- (3) YourTel’s Lifeline service plan offerings in view of the elimination of Link-Up support;
- (4) YourTel’s plans to provide Lifeline subscribers with 911 and E911 access and compliant handsets;

(5) YourTel's current ability to comply with any statutory obligations for ETC designation; and

(6) Any additional measures YourTel will take to prevent waste, fraud, and abuse of the Lifeline program including, but not limited to, YourTel's procedures to oversee third party solicitation of Lifeline subscribers on YourTel's behalf.

Accordingly, it is hereby

ORDERED: this proceeding is suspended; and it is

FURTHER ORDERED: this proceeding will recommence upon YourTel's compliance with the above directives.

By Order of the Department

*/s/ Geoffrey G. Why*_____
Geoffrey G. Why
Commissioner